

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAR 11 2009

JESSIE EARL WILLIAMS,

Plaintiff,

VS.

EMILIE P. KIRKPATRICK et al.,

Defendants.

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY W. H. DEPUTY

No. CIV-08-1205-W

ORDER

On February 10, 2009, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the Court summarily dismiss without prejudice the federal claims asserted by plaintiff Jessie Earl Williams under title 42, section 1983 of the United States Code. Magistrate Judge Bacharach's recommendation was based not only upon his determination that Williams had failed to plead sufficient "facts to state a claim to relief [against defendant Emilie P. Kirkpatrick] that [was] . . . plausible on its face," Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955, 1974 (2007), but also upon his determination that Williams' allegations against the Oklahoma County Public Defender's Office failed since it was not a suable entity or "person" for purposes of section 1983. Magistrate Judge Bacharach also recommended that the Court decline to exercise supplemental jurisdiction over Williams' state law claims.

Williams was advised of his right to object to the Report and Recommendation. He instead filed an amended complaint.

Rule 15(a)(1)(A), F.R.Civ.P., provides that "[a] party may amend . . . [his] pleading once as a matter of course . . . before being served with a responsive pleading." None of

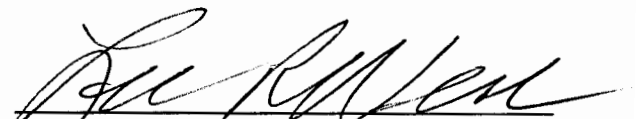
the defendants have submitted responsive pleadings in this case, and thus, Williams has the right under Rule 15(a)(1)(A), supra, to amend his complaint "once as a matter of course."

Accordingly, the Court

(1) DECLINES to adopt the Report and Recommendation issued on February 10, 2009; and

(2) RE-REFERS this matter to Magistrate Judge Bacharach for further proceedings.

ENTERED this 11th day of March, 2009.


LEE R. WEST
UNITED STATES DISTRICT JUDGE